

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

Miguel Johnson

Defendant.

CASE NO: 06-95 :
JUDGE CHRISTOPHER A. BOYKO

ORDER

This matter comes before the Court on Defendant's Motion For Continuance of Trial and Trial Related Deadlines. The Government does not object. For the reasons which follow, the Court grants the Motion.

On October 6, 2006, Defendant filed an unopposed Motion for Preparation of a Pre Plea Presentence Investigation Report to obtain a criminal history calculation to determine whether Defendant qualifies as a career offender.

On October 11, 2006 the Court granted in part, ordering the United States Probation Office to provide a calculation of Defendant's criminal history points within ten days; to wit, by October 21, 2006.

The Defendant has argued, and this Court agrees, that receiving this information two days prior to trial would deny Defendant effective assistance of counsel and due process.

The Court is concerned with defense counsel's ability to spend sufficient time with the Defendant to review the calculations and discuss the implications of the calculations on Defendants's potential sentence. Taking judicial notice of the Northeast Ohio

Correctional Center's lack of diligence in arranging attorney-client visits, psychological exams, etc., the Defendant would be rushed in making a decision whether to plea or exercise his right to trial.

The Government has made a tentative plea offer, which as defense counsel notes, may change depending upon the criminal history calculation. Further, the Court does note this case is unusual, since the Government initially intended to dismiss the Defendant after co-defendant Grubbs' sentencing, but withdrew the offer and had him Supplementally indicted after Defendant tested positive for drugs during drug treatment.

Therefore, the Court concludes that the requested continuance will serve the ends of justice and outweigh the best interest of the public pursuant to 18 U.S.C. §(A) and (B).

IT IS SO ORDERED.

/s/ Christopher A. Boyko

CHRISTOPHER A. BOYKO

UNITED STATES DISTRICT JUDGE

DATED:10/16/2006